

PATENT

LINCP103US

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I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being faxed to 571-273-8300 on the date shown below to Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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Date: 8-10-06*Christine Sustar*
Christine Sustar**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicant(s): Keith Clark, *et al.*

Examiner: Sam Bhattacharya

Serial No: 09/841,314

Art Unit: 2687

Filing Date: April 24, 2001

Title: **SYSTEM AND METHOD TO FACILITATE WIRELESS COMMUNICATION IN A WELDING ENVIRONMENT**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**PETITION TO REVIVE FOR UNINTENTIONAL DELAY UNDER 37 C.F.R. §1.137(b)
AND REQUEST FOR WAIVER OF FEE UNDER 37 C.F.R. §1.17(M)/
SUBMISSION PURSUANT TO 37 CFR §1.114**

Dear Sir:

A Submission Pursuant to 37 CFR §1.114 is being filed concurrently herewith.

Adjustment date: 11/24/2006 CKHLOK
08/11/2006 MBINAS 00000012 09841314
01 FC:1801 -790.00 OP

11/24/2006 CKHLOK 00000004 501063 09841314
01 FC:1453 710.00 DA 790.00 OP

09/841,314LINCP103US

Due to a Patent Office error, the above-identified application became statutorily abandoned for failure to timely reply to a Final Office Action dated September 29, 2005, however, a Notice of Abandonment has not been issued. Applicants, through their undersigned representative, hereby request revival of the subject application and waiver of the petition fee for the following reasons.

Applicants' representative received a Final Office Action dated September 29, 2005, which set a 3-month Shortened Statutory Period for Reply. Applicants' representative submitted a complete timely Reply to the Final Office Action on November 8, 2005, which was believed to place the application in condition for allowance. Thus, the complete Reply was submitted within two months of the date of the Final Office Action. Applicants' representative received no further correspondence from Examiner Bhattacharya until July 27, 2006, when an Advisory Action was mailed. In the Advisory Action, the rejection of claims 7-12, 20, 22, 25 and 26 under 35 U.S.C. 103(a) were withdrawn. In a telephonic communication with the Examiner upon receipt of the Advisory Action (and during further telephonic communications), it was indicated by the Examiner that the delay with regard to the issuance of the Advisory Action was an error on the part of the Patent Office and that the application is not abandoned (*See Interview Summary* dated August 1, 2006). Therefore, it is believed that the statutory abandonment of the subject application is due to a Patent Office error for failure to timely issue an Advisory Action.

In view of at least the above, it is respectfully requested that the fee for the Petition to Revive be waived. Since the above-identified utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

Applicants' representative respectfully submits that the entire delay in filing the required reply, from the due date for the reply until the filing of a grantable petition pursuant to 37CFR § 1.137(b), was unintentional.

In the event that waiver of the petition fee is not granted, the Commissioner is authorized to charge the revival fee in accordance with 37 C.F.R. §1.17(m), to Deposit Account No. 50-1063 [LINCP103US]. If any additional fees are required in connection with this document, the Commissioner is authorized to charge them to the above-noted Deposit Account number.

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Attached herewith is a submission pursuant to 37 CFR §1.114, filed concurrently with an RCE, for the above-identified patent application.

Respectfully submitted,

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